IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3861 OF 1994

Shankar Ganpat Walvekar, .. Petitioner

Vs

Ramkrishna Ganpat Walvekar, .. Respondent

Shri V.V.Savaji, i/b Mr Prafulla Shah, for the petitioner.

None for the respondent.

CORAM : D.B.BHOSALE,J.

DATE : 29.11.2005.

PC:

1. Heard the learned counsel for the petitioner. None appears for the respondent.

2. This petition is directed against the order dated 18.10.1993, by which the amendment application filed by the respondent-plaintiff was allowed. The amendment was challenged solely on the ground that it changes the nature of the suit. A perusal of the amendment shows that the plaintiff seeks to mention in the plaint that on 12.3.86 the defendant took forcible possession of the suit premises in the absence of the plaintiff and this

averment through inadvertence remained to be incorporated in the plaint. The respondent-plaintiff has already prayed for possession in the suit. Keeping that in view and considering the overall facts and circumstances of the case, no case for interference under Article 227 of the Constitution of India is made out. The writ petition, therefore, fails and is dismissed as such.

3. The trial Court to proceed with the hearing of the suit after allowing the petitioner-defendant to file additional written-statement, if any, and dispose of the same expeditiously.

(D.B.Bhosale,J.)